

FREEDOM FROM RELIGION *foundation*

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November 26, 2012

SENT BY U.S. MAIL & FAX
[REDACTED]

Chairman Alex Saitta

School District of Pickens County Board of Trustees
[REDACTED]

Easley, S.C. 29640

Re: Prayers at Board of Trustees Meetings

Dear Chairman Saitta:

I am writing on behalf of the Freedom From Religion Foundation ("FFRF") to alert you to a serious constitutional violation by the School District of Pickens County Board of Trustees. FFRF is a national nonprofit organization with more than 19,000 members, including more than 150 members in South Carolina. Our purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that the SDPC Board of Trustees (Board) begins its monthly meetings with an invocation. These meetings are open to the public and students from district schools are often in attendance. In fact, a SDPC student typically leads the invocation. These prayers have included references to the "Holy Spirit" and often end with "in Jesus' name we pray," or other reference to Jesus. We further understand that official SDPC policy states that an invocation will be included in the board meeting agenda. See Policy BEDB "Agenda."

It is beyond the scope of a public school board to schedule prayer as part of its scheduled meetings. Federal courts have struck down school board practices that include this religious ritual. See *Doe v. Indian River School District*, 653 F.3d 256 (3d Cir. 2011), *cert. denied*, 132 S. Ct. 1097 (U.S. Jan. 17, 2012)(No.11-569)(holding that prayer at school board meetings conveys message favoring religion); *Coles v. Cleveland Bd. of Educ.*, 171 F.3d 369 (6th Cir. 1999)(finding that a school board's practice of opening its meetings with prayers violated the Establishment Clause); *Doe v. Tangipahoa Parish Sch. Bd.*, 473 F.3d 188 (5th Cir. 2006), *dismissed on other grounds*, 494 F.3d 494 (5th Cir. 2007)(finding a school boards practice of opening meetings with sectarian prayer unconstitutional); *Bacus v. Palo Verde Unified Sch. Dist.*, 52 Fed. Appx. 355, (9th Cir. Cal. 2002))(finding that a school board violated the Establishment Clause in allowing prayers "in the name of Jesus").

The Supreme Court has continually and consistently struck down school-sponsored prayers. See, e.g., *Abington Township Sch. Dist. v. Schempp*, 374 U.S. 203

(1963)(declared unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); *Engel v. Vitale*, 370 U.S. 421 (1962)(declared prayers in public schools unconstitutional); *See also Lee v. Weisman*, 505 U.S. 577 (1992)(ruled prayers at public school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985)(overturned law requiring daily "period of silence not to exceed one minute ... for meditation or daily prayer,"). In all of the aforementioned cases, the federal courts have struck down prayer in the public school context because it constitutes a government endorsement of religion, which violates the Establishment Clause of the First Amendment.

In *Doe v. Indian River School District* the court emphasized that school board prayer is analogous to other school prayer cases when it comes to protecting children from the coercion of school-sponsored prayer, which is heightened in the context of public schools. 653 F.3d at 275. In that case, the court also held that the school board meetings are "an atmosphere that contains many of the same indicia of coercion and involuntariness that the Supreme Court has recognized elsewhere in its school prayer jurisprudence." *Id.* In *Indian River School District*, the court's "decision [was] premised on careful consideration of the role of students at school boards, the purpose of the school board, and the principles underlying the Supreme Court's school prayer case law." *Id.* at 281. The final conclusion was that the school board prayer policy "[rose] above the level of interaction between church and state that the Establishment Clause permits." *Id.* at 290.

It makes no difference that the prayers are offered by students rather than board members. Student-led prayers that are scheduled and directed by schools are still unconstitutional. *See Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000) (struck down a school policy that authorized students to vote on whether to hold a prayer at high school football games). In fact, this practice is more egregious since it gives the impression that the Board favors religious students over non-religious students.

Certainly, a public school board is an essential part of the public school system. *See Coles v. Cleveland Bd. of Educ.*, 171 F.3d at 381 ("...the school board, unlike other public bodies, is an integral part of the public school system."). Public school boards exist to set policies, procedures, and standards for education within a community.

The issues discussed and decisions made at Board meetings are wholly school-related, affecting the daily lives of district students and parents. In striking down the board's prayers in *Coles*, the Sixth Circuit found prayers at school board meetings to be squarely within the context of school prayer cases. The court noted, "although meetings of the school board might be of a 'different variety' than other school-related activities, the fact remains that they are part of the same 'class' as those other activities in that they take place on school property and are inextricably intertwined with the public school system." *Id.* at 377. Therefore, prayer at public school board meetings is no different than a prayer given at other school district events and is unconstitutional. In FFRF's ongoing lawsuit against one South Carolina school district (*Nielson v. School District Five of Lexington &*

Richland Counties), we recently amended our complaint to challenge nearly identical invocations at school board meetings there.

Prayer at public school board meetings is unnecessary, inappropriate, and divisive. Calling upon board members, as well as parents and students of the school, to pray is coercive, embarrassing, and beyond the scope of our secular school system. Board members are free to pray privately or to worship on their own time in their own way. The school board, however, ought not to lend its power and prestige to religion, amounting to a governmental endorsement of religion that excludes the 19% of American adults that do not have a religious affiliation. (Pew Forum on Religion and Public Life, October 2012).

We ask that you take immediate action and refrain from scheduling prayers as part of future Board of Trustees meetings. We further ask that you revise SDPC policies to comport with the U.S. Constitution. Please respond in writing with the steps you are taking to remedy this constitutional violation.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Elliott", with a stylized flourish at the end.

Patrick Elliott
Staff Attorney

PCE:ec